

4. Aspects specific to LGBTI

4.1 What information do I have to provide about my identity and sexuality?

It is essential that LGBTI persons reveal their sexual orientation and/or gender identity and/or sex characteristics (SOGISC) in the asylum procedure. As part of this, they must also answer questions about their private life, their self-discovery and their previous relationships. However, questions about their sexual practices are forbidden. Photos and videos with sexual content are not accepted as evidence.

4.2 What can I do if I did not “come out” during the asylum procedure?

If the result of the asylum application is negative, there is usually no opportunity for another interview to provide additional reasons for leaving the country of origin. This is why it is important to specify your SOGISC right from the start as a reason for fleeing your country. Sharing information about your SOGISC is important for asylum authorities to provide you with adequate medical attention, accommodation and help you meet any other needs you have.

4.3 Will I be granted asylum if I did not live openly as a LGBTI person in my country of origin?

LGBTI asylum seekers who did not live openly as such in their country of origin and therefore left without being persecuted will only be granted asylum if they did so for fear of persecution. If they concealed their SOGISC to protect themselves or protect their family's honour, this does not constitute grounds for asylum. In such cases, it is often assumed that they can continue living this way and that persecution is unlikely. In contrast, if a gay or bisexual person is married, this does not necessarily mean that you will not be believed that you are gay / homosexual, bisexual, transgender...

4.4 Does discrimination against LGBTI constitute grounds for asylum?

Insults, abstract threats, and homophobic or transphobic attitudes held by the majority of society are not in themselves grounds for asylum. However, if discrimination in the asylum seeker's home country is so extreme that it seriously violates human rights, this does constitute grounds for asylum. This may also be true in the case of exclusion from education, health care or the job market.

4.5 If I fled my country for being persecuted on grounds other than my sexual orientation, gender identity and/or sex characteristics (SOGISC), is it still important for me to disclose this information?

Some LGBTI persons may flee their country because of war, major natural disasters (such as earthquakes, floods...) or for being persecuted based on religion, political persuasions or/and other personal background and/or characteristic. In this case all the information in chapters 2 and 3 still apply to you. However, it is advisable to share information about your SOGISC to the asylum authorities or social workers, nurses, NGO workers... at an asylum home. This piece of information will help them provide you with adequate medical attention, accommodation and help you meet any other needs you have.


LEGEBITRA

Legebitra is a LGBTI civil society organization, active in the fields of human rights, education, mental, physical and sexual health, and advocates social and systemic changes based on respect of sexual orientation, gender identity, gender expression and/or sex characteristics.


We provide:


- support during and after the asylum procedure,
- legal advice,
- link between asylum seekers and LGBTI friendly attorneys,
- useful information about the asylum procedure and about Slovenia.

More about Legebitra on our website:

 www.legebitra.si/en

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This leaflet is based on Short Guide for Lesbian, Gay, Bisexual, Trans+ and Inter+ (LGBTI) Refugees in Germany, published by Lesben- und Schwulenverband in Deutschland (LSVD) as a part of their Queer Refugees Deutschland project.

ASYLUM PROCEDURE: INFORMATION FOR LESBIAN, GAY, BISEXUAL, TRANS AND INTERSEX PERSONS



LEGEBITRA

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Published with the help of
Amnesty International Slovenia

1. LGBTI in Slovenia

Discrimination against lesbian, gay, bisexual, transgender or intersex (LGBTI) persons is legally prohibited in Slovenia. Legally, police and courts are here to protect LGBTI persons. This, unfortunately, does not mean that people do not experience violence or discrimination. However, if someone experiences violence and/or discrimination for being LGBTI, they can report it to the police or Legebitra (contacts listed at the end). It is not illegal to be LGBTI in Slovenia. Same-sex partners can form a civil union and there is a procedure for a legal gender recognition.

2. Protection for LGBTI asylum seekers in Slovenia

2.1 When are LGBTI asylum seekers granted asylum in Slovenia?

LGBTI persons who are being persecuted in their country of origin because of their belonging to the particular social group (LGBTI) can apply for asylum in Slovenia.

Persecution means that they are being threatened with extreme violence, death, imprisonment or other types of inhumane treatment in their country of origin due to their sexual orientation and/or gender identity and/or sex characteristics (SOGISC).

2.2 When does state persecution constitute grounds for asylum?

The nature or frequency of the acts of persecution or discrimination by the state must be so extreme that this constitutes a serious violation of human rights. According to the authority, the fact that homosexual activity is punishable by law in a certain state does not in itself constitute an act of persecution. Only the actual imposition of such a punishment is considered an act of persecution by a state.

2.3 When does persecution by the family (non-state persecution) constitute grounds for asylum?

If the persecutor is a non-state entity (family etc.) rather than a state entity (police, judiciary etc.), the persecution only constitutes grounds for asylum if evidence is provided that the state is not able or not willing to offer protection. This means that violence and threats of violence from family members or others only entitle the victim to asylum if it is evident that they would not be protected by the police or by moving to another part of the country where they would be safe.

3. The asylum procedure

3.1 Where will I live during the asylum procedure?

In normal circumstances, during the asylum procedure, you will live in the Asylum centre in Ljubljana, the capital of the Republic of Slovenia, where the procedure of international protection at first instance begins.

Prior to submitting the application (and the medical examination), you will be first housed in the reception rooms of the Asylum Centre (usually for a day, exceptionally longer). After your application is submitted, you will be moved to the main part of the Asylum Centre, which is divided into separate sections for adult men, minors and women and families. In addition to Ljubljana, the Asylum Centre has its department also in Logatec (app. 40 minutes bus ride Southwest of Ljubljana), where families are accommodated.

3.2 How does the asylum procedure work?

In the Republic of Slovenia, the third country nationals can apply for international protection (asylum). The procedure is divided into two parts; the applicant first expresses its intention to file an application for international protection, and then the applicant submits an application for international protection during their first interview. Later they have a second interview – a personal interview, where the decision maker will ask you in detail what are your reasons for obtaining international protection and about any other important facts and circumstances that may be relevant to the decision.

You can read more about the asylum procedure on our website:

<https://lgbtpravice.si/novosti/international-protection/>



3.3 What will my first interview be like?

During the first interview you will be asked about your personal information, the route you took from your country of origin to Slovenia, your personal documents (ID, passport...), information about your family, potential prior applications for asylum in Slovenia or any other country, the reasons why you are applying for asylum... It is very important that you actively participate in the interview and that you pay attention to details and remember what you said in the interview and that you accurately and truthfully share your story. When describing the important events, you should tell when and where they occurred, you should pay particular attention to explaining why you would be at risk if you would return to your country. If the officer asks you for some evidence (documents, photographs... that apply to your situation and the reasons why you had to leave your country), you should pay attention to the deadline the officer gives you for submitting the evidence.

3.4 How should I prepare for my first interview?

To prepare for your first interview, you should think about the questions listed above, if possible write down your answers, since it is very important to remember as accurately as possible what you will say at the first interview, as similar, but more precise questions will follow at the second interview – this will confirm your credibility.

3.5 What happens during the second interview? (reasons for seeking asylum)

The second interview focuses on the reasons why you fled your country. You must describe this clearly and in specific detail, without omissions or contradictions. Do not lie because this will usually lead to the application being rejected. After, the transcript is translated to you and you have to correct them if there is something in the transcript you did not say or if there is something missing. This is very important, since you will have to sign it and it will become valid.

3.6 What is the Dublin system?

After the first interview your fingerprints will be entered into the EURODAC database. This is how the authorities are able to determine whether you have already applied for asylum in another European Union (EU) member state or have transited through another EU member state without proper documents. The Dublin system means that based on your fingerprints it is verified if you already applied for asylum in any other EU country. If so, you will be returned to that country.